FIRST AMENDMENT TO OFFERING PLAN

FOR

GUARD HILL HOMEOWNERS ASSOCIATION, INC.

SPONSOR:

GUARD HILL DEVELOPMENT

CORPORATION

PREMISES:

Guard Hill Manor

Route 117

Mount Kisco, New York 10549

DATE OF THIS AMENDMENT:

May 30, 1986

THIS AMENDMENT MODIFIES AND SUPPPLEMENTS THE TERMS OF THE ORIGINAL OFFERING PLAN ACCEPTED FOR FILING BY THE NEW YORK STATE DEPARTMENT OF LAW ON DECEMBER 17, 1985, AND SHOULD BE READ IN CONJUNCTION WITH SAID OFFERING PLAN.

FIRST AMENDMENT

TO

OFFERING PLAN

FOR

GUARD HILL HOMEOWNERS ASSOCIATION, INC.

The Offering Plan for GUARD HILL HOMEOWNERS ASSO-CIATION, INC., accepted for filing by the New York State Department of Law on December 17, 1985, is hereby amended and/or modified as follows:

(1) Part II, Exhibit A of the Offering Plan, Sections 1,2,3, and 4 of ARTICLE XI of the Declaration of Covenants, Conditions, Restrictions and Easements (Pages 53 to 56 of the Offering Plan) entitled "INSURANCE AND CONDEMNATION" are hereby deleted in their entirety and the following inserted in their place and stead:

*Section 1. Common Area and Individual Homes. The Board of Directors shall maintain public liability insurance, to the extent obtainable, covering each Member, lessee, occupant and the Managing Agent, if any, against any negligent act of commission or omission attributable to them which occurs on or in the Common Area or relating to the maintenance by the Association of other parts of the Properties. In addition, fire insurance with extended coverage, water damage, vandalism and malicious mischief endorsements shall be obtained insuring all of the Homes (but not including the furniture, furnishings, or the excess of upgraded facilities and equipment or other personal property supplied or installed by the Homeowner), and the Common Area and improvements. Such coverage shall be sufficient to cover full replacement value, or for necessary repair or reconstruction work, and shall cover the respective interests of the Association, the Board of Directors, and all Homeowners and their mortgagees, as their interest may appear. Each of the policies shall contain a standard New York mortgagee clause in favor -- of each mortgagee of a Home which shall provide that the loss, if any, thereunder shall be payable to such mortgagee as its interest may appear, subject, however, to the loss payment provisions in favor of the Board of Directors and/or the Insurance Trustee hereinafter set forth. All policies of physical damage insurance shall

contain, to the extend obtainable, waivers of the right of subrogation against any Owner, members of the families of Owners, and the Association, its officers, directors, agents and employees. Such policies shall also contain waivers of any reduction of pro-rata liability of the insurer. In addition, the Board of Directors, to the extent obtainable and required, shall obtain Workers' Compensation and disability insurance. All insurance premiums for such coverage shall be collected as part of the Association Charges and paid by the Association.

Section 2. Additional Insurance. In addition to the insurance set forth herein, the Homeowner may desire to insure his personal effects and the interior of his Home itself for fire and liability. Such insurance, if taken by the Homeowner, shall be payable by the Homeowner directly.

Section 3. Insurance Trustee. Such insurance policies obtained by the Board of Directors shall be payable to the Board of Directors as trustee for each of the Homeowners and/or his or her mortgagee, as their respective interests may appear. Notwithstanding the foregoing, however, the Board of Directors may, upon request of mortgagees holding mortgages on more than twenty-five (25%) percent of the Lots, have the insurance proceeds paid over to an Insurance Trustee. Such insurance proceeds shall be applied to the repair and restoration of the Properties as hereinafter provided.

The Insurance Trustee, if one is chosen pursuant to this Section 3 of this Article XI, shall be a bank or trust company located in the State of New York as designated by the Board of Directors. All fees and disbursements of any Insurance Trustee shall constitute an expense of the Association and shall be paid by the Board of Directors. The Insurance Trustee shall not be liable for the payment of premiums, for failure to renew policies, for sufficiency of policies, or for the failure to collect any proceeds as are paid. The Trustee shall hold all payments in trust for the benefit of the Owners and their mortgagees.

Section 4. Repair or Reconstruction After Fire or Other Casualty. In the event of damage to or destruction of any Lot or the improvements thereon as a result of fire or other casualty, the Board of Directors shall arrange for the prompt repair and restoration of the Home (but not including the furniture, furnishings or excess of upgraded facilities and equipment or other personal property installed by the Homeowner). Repair or reconstruction of the damaged Homes must be performed in a good and workmanlike manner and shall

conform as nearly as possible with the original plans and specifications. The plans and specifications for the repair or reconstruction to the exterior of any Home must be submitted to and approved in writing by the Board of Directors or by an architectural committee as provided in Article VII hereof. Repair or reconstruction of the damaged Homes must commence within a reasonable time after occurrence of the loss, but in any event not later than thirty (30) days after receipt of the insurance proceeds. The Board of Directors or Insurance Trustee, as the case may be, shall disburse all proceeds of insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

In the event such proceeds are not adequate to repair such damage, the Board of Directors may levy a special assessment against the Homeowner in whatever amount is necessary to adquately cover any deficiency. If the insurance proceeds exceed the cost of repairing or rebuilding, such excess shall be retained by the Association.

(2) Paragraph 10 of the <u>INTRODUCTION</u> (Page 4 of the Offering Plan) is deleted in its entirety and the following inserted in its place:

"The Board of Directors shall maintain (a) comprehensive public liability insurance, to the extent obtainable, covering each Association Member, lessee and occupant, and the Managing Agent, if any, against liability for any negligent act of commission or omission attributable to them which occurs on or in the Common Area; (b) fire insurance with extended coverage, water damage, vandalism and malicious mischief endorsements insuring the Homes, the Common Area and improvements, in an amount equal to its full replacement value; and (c) fidelity bonds for such officers and employees in such amounts as determined necessary by the Board of Directors; and such other instruments as the Board of Directors shall determine. All insurance premiums for such coverage shall be paid for by the Association."

Declaration of Covenants, Conditions, Restrictions and Easements, the fifth paragraph of Page 22 of the Offering Plan is hereby deleted in its entirety and the following paragraph inserted in its place:

"The Board of Directors shall maintain (a) comprehensive public liability insurance, to the extent

obtainable, covering each Association Member, lessee and occupant, and the Managing Agent, if any, against liability for any negligent act of commission or omission attributable to them which occurs on or in the Common Area; (b) fire insurance with extended coverage, water damage, vandalism and malicious mischief endorsements insuring the Homes, the Common Area and improvements, in an amount equal to its full replacement value; and (c) fidelity bonds for such officers and employees in such amounts as determined necessary by the Board of Directors; and such other instruments as the Board of Directors shall determine. All insurance premiums for such coverage shall be paid for by the Association."

(4) Part I, Schedule A entitled, <u>Projected Budget for Guard Hill Homeowners Association</u>, Inc. for First Year of Operation - 2/1/86 to 1/31/87, is hereby modified as follows:

Expense Line Item 108 entitled "Insurance" will increase from the stated \$10,600.00 annually to \$31,500.00 annually as a result of the modifications hereinabove set forth in Sections 1 and 2 of Article XI of the Declaration. This increase in insurance expense will result in an increase in the projected TOTAL ANNUAL EXPENSES to \$338,900.00, and a revised Association Charge of \$133.22 per Lot/per Month instead of the stated \$125.00.

- (5) The Exhibit to the <u>Projected Budget for the First Year of Operation</u>, Part I, Schedule A of the Offering Plan (Page 17(h), correspondence from The Roberts Agency, Inc. dated October 14, 1985, is hereby deleted in its entirety. Superseding said Exhibit is a letter from The Roberts Agency, Inc. dated May 7, 1986, copy of which is appended hereto and made part of this First Amendment as revised Exhibit A.
- (6) Footnote 108 to Part I, Schedule A, entitled, Projected Budget for Guard Hill Homeowners Association, Inc. for First Year of Operation 2/1/86 to 1/31/87, (Page 15 of the Offering Plan) is deleted in its entirety, and the following inserted in its place and stead:
 - "108 <u>Insurance</u>: Based on a quotation from The Roberts Agency, Inc., of Bloomfield, Connecticut, dated May 7, 1986, coverage on Common area and individual Homes, as follows (see copy attached):

Property: \$13,250,000. Limited, Actual Replacement Cost Coverage

Comprehensive General Liability: \$1,000,000. limit.

It is recommended that each Owner contact his own insurance representative to provide adequate insurance with respect to his personal effects and the interior of his Home itself for fire and liability."

(7) The name and address of the SELLING AGENT designated on the cover page of the Offering Plan as:

MARGARET T. AMBROSE Licensed R. E. Broker RFD #6, Route 22 Brewster, New York 10509

is deleted in its entirety and the following name and address inserted in its place and stead:

NASK AMBROSE REALTY, LTD. RFD #5, Route 22 Brewster, New York 10509

(8) Part I, entitled, "IDENTITY OF THE PARTIES", Section (B) (Page 31 of the Offering Plan) is deleted in its entirety and the following inserted in its place and stead:

"(B) Selling Agent

Nask Ambrose Realty, Ltd., with offices in Brewster, New York, is a licensed real estate broker in New York State, and works in the Putnam and Westchester County areas."

There are no other changes in this First Amendment. The amendments and/or modifications herein contained will have no effect upon the real estate taxes or water and sewer service charges as set forth in the Offering Plan.

SECOND AMENDMENT TO OFFERING PLAN

FOR

GUARD HILL HOMEOWNERS ASSOCIATION, INC.

SPONSOR:

GUARD HILL DEVELOPMENT

CORPORATION

PREMISES:

Guard Hill Manor

Route 117, Bedford Road

Mount Kisco, New York 10549

DATE OF THIS AMENDMENT:

September 19, 1986

THIS AMENDMENT MODIFIES AND SUPPLEMENTS THE TERMS OF THE ORIGINAL OFFERING PLAN ACCEPTED FOR FILING BY THE NEW YORK STATE DEPARTMENT OF LAW ON DECEMBER 17, 1985; THE FIRST AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON JUNE 5, 1986, AND SHOULD BE READ IN CONJUNCTION WITH SAID OFFERING PLAN AND AMENDMENT.

SECOND AMENDMENT

TO

OFFERING PLAN

FOR

GUARD HILL HOMEOWNERS ASSOCIATION, INC.

The Offering Plan for Guard Hill Homeowners Association, Inc., accepted for filing by the New York State Department of Law on December 17, 1985; and the First Amendment to said Offering Plan accepted for filing by the Department of Law on June 5, 1986 are hereby further amended and/or modified as follows:

(1) Part II, Exhibit E (Page 124) of the Offering Plan entitled Site Plan, and Part II, Exhibit F (Page 126) of the Offering Plan entitled Lot Identification Plan, are hereby deleted in their entirety and replaced by the enclosed revised Exhibits E and F. The purpose of this Amendment is to correct the erroneous numbering of Lots with respect to the following: Lots #1501 through #1504; Lots #1701 through #1704; Lots #1801 through #1804; Lots #1901 through #1094; Lots #2001 through #2004; Lots #2501 through #2503; Lots #3801 through #3804; Lots #4001 through #4003; and Lots #4401 through #4404.

There are no other changes in this Second Amendment. The Amendments and/or modifications herein contained will have no effect upon the Association Charges, real estate taxes or water and sewer service charges as set forth in the Offering Plan.

THIRD AMENDMENT TO OFFERING PLAN

FOR

GUARD HILL HOMEOWNERS ASSOCIATION, INC.

SPONSOR:

GUARD HILL DEVELOPMENT

CORPORATION

PREMISES:

Guard Hill Manor

Route 117, Bedford Road

Mount Kisco, New York 10549

DATE OF THIS AMENDMENT:

January 12, 1987

THIS AMENDMENT MODIFIES AND SUPPLEMENTS THE TERMS OF THE ORIGINAL OFFERING PLAN ACCEPTED FOR FILING BY THE NEW YORK STATE DEPARTMENT OF LAW ON DECEMBER 17, 1985; THE FIRST AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON JUNE 5, 1986; THE SECOND AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON OCTOBER 2, 1986, AND SHOULD BE READ IN CONJUNCTION WITH SAID OFFERING PLAN AND AMENDMENTS.

THIRD AMENDMENT

TO

OFFERING PLAN

FOR

GUARD HILL HOMEOWNERS ASSOCIATION, INC.

The Offering Plan for Guard Hill Homeowners Association, Inc., accepted for filing by the New York State Department of Law on December 17, 1985; the First Amendment to said Offering Plan accepted for filing by the Department of Law on June 5, 1986; and the Second Amendment to said Offering Plan accepted for filing by the Department of Law on October 2, 1986 are hereby further amended and/or modified as follows:

- (1) Part I, Section entitled "TRUST FUND PROVI-SIONS", set forth on Page 29 of the Offering Plan is hereby amended to delete the Pawling Savings Bank as depository for the Special Escrow Account in which trust funds shall be held by the Sponsor, and the United Northern Federal Savings Bank, Brewster, New York shall be substituted in its place and stead.
- (2) Similarly, Part II, Exhibit I entitled "PUR-CHASE AGREEMENT", at Page 130 of the Offering Plan under Subparagraph (4) entitled "TRUST FUNDS", is hereby amended to delete the Pawling Savings Bank as depository for the Special Escrow Account in which trust funds shall be held by the Sponsor, and the United Northern Federal Savings Bank, Brewster, New York, shall be substituted in its place and stead.
- GUARD HILL HOMEOWNERS ASSOCIATION, INC. Section 6, Voting, Page 97, second paragraph thereof, is hereby amended to include the following language (new material underlined): Notwithstanding the above, as long as Sponsor owns twenty-five (25) Lots, or for a period not to exceed four (4) years from the date the Declaration is filed, whichever first occurs, or at such earlier time as the Sponsor deems it to be in the best interest of the parties; only the Sponsor may vote or appoint members of the Board of Directors.

(4) The Declaration has been filed and the first closing has occurred.

There are no other changes in this Third Amendment. The amendments and/or modifications herein contained shall have no effect upon the Association Charges, real estate taxes, water or sewer service charges set forth in the Offering Plan.

FOURTH AMENDMENT TO OFFERING PLAN

FOR

GUARD HILL HOMEOWNERS ASSOCIATION, INC.

SPONSOR:

GUARD HILL DEVELOPMENT

CORPORATION

PREMISES:

Guard Hill Manor

Route 117, Bedford Road

Mount Kisco, New York 10549

DATE OF THIS AMENDMENT:

January 8, 1988

THIS AMENDMENT MODIFIES AND SUPPLEMENTS THE TERMS OF THE ORIGINAL OFFERING PLAN ACCEPTED FOR FILING BY THE NEW YORK STATE DEPARTMENT OF LAW ON DECEMBER 17, 1985; THE FIRST AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON JUNE 5, 1986; THE SECOND AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON OCTOBER 2, 1986; THE THIRD AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON JANUARY 30, 1987, AND SHOULD BE READ IN CONJUNCTION WITH SAID OFFERING PLAN AND AMENDMENTS.

FOURTH AMENDMENT

TO

OFFERING PLAN

FOR

GUARD HILL HOMEOWNERS ASSOCIATION, INC.

The Offering Plan for Guard Hill Homeowners Association, Inc., accepted for filing by the New York State Department of Law on December 17, 1985; the First Amendment to said Offering Plan accepted for filing by the Department of Law on June 5, 1986; the Second Amendment to said Offering Plan accepted for filing by the Department of Law on October 2, 1986; the Third Amendment to said Offering Plan accepted for filing by the Department of Law on January 30, 1987; are hereby further amended and/or modified as follows:

The offering for Guard Hill Manor will currently expire on January 30, 1988. The Sponsor wishes to extend the offering for an additional twelve (12) monthperiod. Accordingly, this Fourth Amendment to the Offering Plan for Guard Hill Manor Homeowners Association, Inc. is hereby submitted for the express purpose of extending said offering for an additional period of twelve (12) months from the date of acceptance for filing of this Fourth Amendment.

This Fourth Amendment will have no effect upon any of the provisions of the original Offering Plan or amendments previously filed, and shall have no effect upon the Association Charges, real estate taxes, water or sewer service charges set forth in the Offering Plan. The Sponsor remains in control of the Homeowners Association and no Association Charges have been collected to date. The Sponsor is responsible for the payment of all operational expenses while it remains in control of the Association.



STATE OF NEW YORK DEPARTMENT OF LAW 120 Broadway New YORK, NY 10271

ROBERT ABRAMS Attorney General

FREDERICK K. MEREMAN Assistant Attorney General in Charge Real Estate Financing Bureau

(212) 341-2162

Guard Hill Development Corp. c/o George Swander Attn: George Swander Route 6, P.O. Box 379 Brewster, NY 10509

RE: Guard Hill Manor HOA File Number: H850119

Date Amendment Filed: 02/04/88

Receipt Number: 606212358

Amendment No: 4

Filing Fee: \$ 75.00

Dear Sponsor:

The referenced amendment to the offering plan for the subject premises is hereby accepted and filed. Since this amendment is submitted after the post closing amendment has been filed, this filing is effective for twelve months from the date of filing of this amendment. However, any material change of fact or circumstance affecting the property or offering requires an immediate amendment.

Any misstatement or concealment of material fact in the material submitted as part of this amendment renders this filing void ab initio. This office has relied on the truth of the certifications of sponsor, sponsor's principals, and sponsor's experts, as well as the transmittal letter of sponsor's attorney.

Filing this amendment shall not be construed as approval of the contents or terms thereof by the Attorney General of the State of New York, or any waiver of or limitation on the Attorney General's authority to take enforcement action for violation of Article 23-A of the General Business Law or other applicable law. The issuance of this letter is conditioned upon the collection of all fees imposed by law. This letter is your receipt for the filing fee.

Very truly yours,

MARISSA PIESMAN

ASSISTANT ATTORNEY GENERAL 12

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FIFTH AMENDMENT TO OFFERING PLAN

FOR

GUARD HILL HOMEOWNERS ASSOCIATION, INC.

SPONSOR:

GUARD HILL DEVELOPMENT

CORPORATION

PREMISES:

Guard Hill Manor

Route 117, Bedford Road

Mount Kisco, New York 10549

DATE OF THIS AMENDMENT:

December 14, 1988

THIS AMENDMENT MODIFIES AND SUPPLEMENTS THE TERMS OF THE ORIGINAL OFFERING PLAN ACCEPTED FOR FILING BY THE NEW YORK STATE DEPARTMENT OF LAW ON DECEMBER 17, 1985; THE FIRST AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON JUNE 5, 1986; THE SECOND AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON OCTOBER 2, 1986; THE THIRD AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON JANUARY 30, 1987; THE FOURTH AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON FEBRUARY 4, 1988, AND SHOULD BE READ IN CONJUNCTION WITH SAID OFFERING PLAN AND AMENDMENTS.

FIFTH AMENDMENT

TO

OFFERING PLAN

FOR

GUARD HILL HOMEOWNERS ASSOCIATION, INC.

The Offering Plan for Guard Hill Homeowners Association, Inc., accepted for filing by the New York State Department of Law on December 17, 1985; the First Amendment to said Offering Plan accepted for filing by the Department of Law on June 5, 1986; the Second Amendment to said Offering Plan accepted for filing by the Department of Law on October 2, 1986; the Third Amendment to said Offering Plan accepted for filing by the Department of Law on January 30, 1987; and the Fourth Amendment to said Offering Plan accepted for filing by the Department of Law on February 4, 1988 are hereby further amended and/or modified as follows:

The offering for Guard Hill Manor will currently expire on February 4, 1989. The Sponsor wishes to extend the offering for an additional twelve (12) monthperiod. Accordingly, this Fifth Amendment to the Offering Plan for Guard Hill Manor Homeowners Association, Inc. is hereby submitted for the express purpose of extending said offering for an additional period of twelve (12) months from the date of acceptance for filing of this Fifth Amendment.

This Fifth Amendment will have no effect upon any of the provisions of the original Offering Plan or amendments previously filed, and shall have no effect upon the Association Charges, real estate taxes, water or sewer service charges set forth in the Offering Plan. The Sponsor remains in control of the Homeowners Association and no Association Charges have been collected to date. The Sponsor is responsible for the payment of all operational expenses while it remains in control of the Association.



STATE OF NEW YORK DEPARTMENT OF LAW 120 BROADWAY NEW YORK, NY 10271

ROBERT ABRAMS Attorney General

FREDERICK K. MEHLMAN Assistant Attorney General in Charge Real Estate Financing Bureau

(212) 341-2162

Guard Hill Development Corp. c/o George Swander Attn: George Swander Route 6, P.O. Box 379 Brewster, NY 10509

RE: Guard Hill Manor HOA File Number: H850119

Date Amendment Filed: 12/27/88

Receipt Number: 521711329

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Amendment No: 5

Filing Fee: \$ 75.00

Dear Sponsor:

The referenced amendment to the offering plan for the subject premises is hereby accepted and filed. Since this amendment is submitted after the post closing amendment has been filed, this filing is effective for twelve months from the date of filing of this amendment. However, any material change of fact or circumstance affecting the property or offering requires an immediate amendment.

Any misstatement or concealment of material fact in the material submitted as part of this amendment renders this filing void ab initio. This office has relied on the truth of the certifications of sponsor, sponsor's principals, and sponsor's experts, as well as the transmittal letter of sponsor's attorney.

Filing this amendment shall not be construed as approval of the contents or terms thereof by the Attorney General of the State of New York, or any waiver of or limitation on the Attorney General's authority to take enforcement action for violation of Article 23-A of the General Business Law or other applicable law. The issuance of this letter is conditioned upon the collection of all fees imposed by law. This letter is your receipt for the filing fee.

Very truly yours,

MARISSA PIESMAN

ASSISTANT ATTORNEY GENERAL

7 H

SIXTH AMENDMENT TO OFFERING PLAN

FOR

GUARD HILL HOMEOWNERS ASSOCIATION, INC.

SPONSOR:

GUARD HILL DEVELOPMENT

CORPORATION

PREMISES:

Gward Hill Manor

Route 117, Bedford Road

Mount Kisco, New York 10549

DATE OF THIS AMENDMENT:

January 16, 1989

THIS AMENDMENT MODIFIES AND SUPPLEMENTS THE TERMS OF THE ORIGINAL OFFERING PLAN ACCEPTED FOR FILING BY THE NEW YORK STATE DEPARTMENT OF LAW ON DECEMBER 17, 1985; THE FIRST AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON JUNE 5, 1986; THE SECOND AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON OCTOBER 2, 1986; THE THIRD AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON JANUARY 30, 1987; THE FOURTH AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON FEBRUARY 4, 1988, THE FIFTH AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON DECEMBER 27, 1988, AND SHOULD BE READ IN CONJUNCTION WITH SAID OFFERING PLAN AND AMENDMENTS.

SIXTH AMENDMENT

TO

OFFERING PLAN

FOR

GUARD HILL HOMEOWNERS ASSOCIATION, INC.

The Offering Plan for Guard Hill Homeowners Association, Inc., accepted for filing by the New York State Department of Law on December 17, 1985; the First Amendment to said Offering Plan accepted for filing by the Department of Law on June 5, 1986; the Second Amendment to said Offering Plan accepted for filing by the Department of Law on October 2, 1986; the Third Amendment to said Offering Plan accepted for filing by the Department of Law on January 30, 1987; the Fourth Amendment to said Offering Plan accepted for filing by the Department of Law on February 4, 1988, and the Fifth Amendment to said Offering Plan accepted for filing by the Department of Law on December 27, 1988 are hereby further amended and/or modified as follows:

(1) SELLING AGENT

The names and addresses of the SELLING AGENTS as set forth on the cover page of the Offering Plan and in Paragraph (7) of the First Amendment to the Offering Plan, are hereby deleted and replaced with the following:

EAGLE RIVER REALTY, LTD. Route 22 Brewster, New York 10509

(2) PART I entitled, "IDENTITY OF THE PARTIES", Section (B) entitled, "Selling Agent", (Page 31 of the Offering Plan), as amended by Paragraph (B) of the First Amendment to the Offering Plan, is deleted in its entirety and the following inserted in its place and stead:

(B) Selling Agent

EAGLE RIVER REALTY, LTD., with offices at Route 22, Brewster, New York 10509, is a licensed real estate broker in New York State working in the Putnam and Westchester County areas

(3) PART II, EXHIBIT "I" of the Offering Plan entitled, "PURCHASE AGREEMENT", (Page 129 of the Offering Plan), Paragraph (29) thereof on Page 142 of the Offering Plan, is hereby amended to delete the name "MARGARET T. AMBROSE" and to insert the name "EAGLE RIVER REALTY, LTD." in its place and stead.

There are no other changes in this Sixth Amendment. The amendments and/or modifications set forth in this Sixth Amendment will have no effect upon the Association Charges, real estate taxes, water or sewer service charges set forth in the Offering Plan and/or Amendments thereto. The Sponsor remains in control of the Homeowners Association and is collecting Association Charges from homeowners.

SEVENTH AMENDMENT TO OFFERING PLAN

FOR

GUARD HILL HOMEOWNERS ASSOCIATION, INC.

SPONSOR:

GUARD HILL DEVELOPMENT

CORPORATION

PREMISES:

Guard Hill Manor

Route 117, Bedford Road

Mount Kisco, New York 10549

DATE OF THIS AMENDMENT:

May 3rd, 1989

THIS AMENDMENT MODIFIES AND SUPPLEMENTS THE TERMS OF THE ORIGINAL OFFERING PLAN ACCEPTED FOR FILING BY THE NEW YORK STATE DEPARTMENT OF LAW ON DECEMBER 17, 1985; THE FIRST AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON JUNE 5, 1986; THE SECOND AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON OCTOBER 2, 1986; THE THIRD AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON JANUARY 30, 1987; THE FOURTH AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON FEBRUARY 4, 1988; THE FIFTH AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON DECEMBER 14, 1988; THE SIXTH AMENDMENT TO SAID PLAN ACCEPTED FOR FILING ON FEBRUARY 3, 1989, AND SHOULD BE READ IN CONJUNCTION WITH SAID OFFERING PLAN AND AMENDMENTS.



SEVENTH AMENDMENT TO OFFERING PLAN

FOR

GUARD HILL HOMEOWNERS ASSOCIATION, INC.

The Offering Plan for Guard Hill Homeowners Association, Inc., accepted for filing by the New York State Department of Law on December 17, 1985; the First Amendment to said Offering Plan accepted for filing by the Department of Law on June 5, 1986; the Second Amendment to said Offering Plan accepted for filing by the Department of Law on October 2, 1986; the Third Amendment to said Offering Plan accepted for filing by the Department of Law on January 30, 1987; the Fourth Amendment to said Offering Plan accepted for filing by the Department of Law on February 4, 1988; the Fifth Amendment to said Offering Plan accepted for filing by the Department of Law on December 27, 1988; and the Sixth Amendment to said Offering Plan accepted for filing by the Department of Law on February 3, 1989, are hereby further amended and/or modified as follows:

(1) SPECIAL RISKS OF THIS OFFERING

Part I, page 1 of the Offering Plan entitled, "SPECIAL RISKS OF THIS OFFERING", is further amended to include the following new paragraph at the end thereof, relating to the new Housing Merchant Limited Warranty:

"Limited Warranty: The New York State Legislature has recently enacted the Housing Merchant Implied Warranty, a new provision of the General Business Law, which imposes a general warranty against building defects in new construction. The Sponsor has excluded the statutory implied warranty by inclusion of the Limited Warranty in the Purchase Agreement in accordance with General Business Law, Section 777-b. Limited Warranty and Performance Standards it covers are set forth in full in this Offering Plan, Part II, Section BB, entitled, "PURCHASE AGREEMENT". An explanation of the Housing Merchant Implied Warranty and the full text of the law are set forth in Part I, Section L, entitled, "PRO-CEDURE TO PURCHASE".

(2) PROCEDURE TO PURCHASE

Part I, Page 29 of the Offering Plan entitled, "PROCEDURE TO PURCHASE", is hereby amended to include the following explanation of the Housing Merchant Implied Warranty Law and the full text of the Statute, copy of which is attached hereto.

"Housing Implied Limited Warranty

Effective March 1, 1989, a new law went into effect which grants to buyers of most newly constructed units, a Housing Merchant Implied Warranty. The following is a brief summary of that law. The full text of the law follows this summary.

l. <u>Housing Affected</u>: Newly constructed single family homes and cooperative and condominium units in buildings of five stories or less.

2. Coverage:

- (a) For one year, the home must be free from defects caused by workmanship or materials that do not meet the standards of the applicable building code; for items not covered by the code, the construction must be in accordance with locally accepted building practices.
- (b) For two years, the plumbing, electrical, heating, cooling and ventilation systems must be free from defects caused by unskillful installation.
- (c) For six years, the home must be free from physical defects in structural elements (foundation, floors, walls, roof framing), which make it unsafe or unliveable.

3. Not Covered:

(a) A defect not caused by defective workmanship, materials or design.

- (b) A patent defect which was obvious or would have been obvious upon inspection.
- (c) Defects in items sold with the home, such as ranges, refrigerators, air conditioners, etc. There are implied warranties from the manufacturers of such goods which are described in other laws.

4. Notice:

Buyers must give notice of defects in their home in writing not later than thirty (30) days after the end of the warranty period.

5. Limitation of Warranty:

The Housing Merchant Implied Warranty can be limited. However, the limited warranty cannot permit construction which is below code or below locally accepted building practices, and the limited warranty time period cannot be shorter than those described above. In this Offering Plan the Housing Merchant Implied Warranty is limited. The Limited Warranty together with the Performance Standards which it encompasses are set forth in full in Exhibit "C" (Page 129) of the Offering Plan entitled, "PURCHASE AGREE-MENT"."

(3) PURCHASE AGREEMENT

Part II, Exhibit I, Page 129 of the Offering Plan is hereby amended to delete in its entirety Paragraph (18) on Page 137 entitled, "LIMITED ONE YEAR WAR-RANTY"; and to insert new Paragraph (38) entitled, "LIMITED WARRANTY", copy of which is attached to the Purchase Agreement and incorporated in this Offering Plan by reference.

This Seventh Amendment will have no effect upon the Association Charges, real estate taxes, water or sewer service charges set forth in the Offering Plan.

STATE OF NEW YORK

HOUSING MERCHANT IMPLIED WARRANTY STATUTE

5395--A

1987-1988 Regular Sessions

IN SENATE

May 5, 1987

Introduced by Sen. KEHOE -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law and the civil practice law and rules, in relation to warranties on sales of new homes

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new article 2 thirty-six-B to read as follows:

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ARTICLE 36-B

Section 777. Definitions.

777-a. Housing merchant implied warranty.
777-b. Exclusion or modification of warranties.
8 \$ 777. Definitions. As used in this article, the following terms shall have the following meanings:
9 1. "Builder" means any person, corporation, partnership or other entity contracting with an owner for the construction or sale of a new home.
12 home.
13 2. "Building code" means the uniform fire prevention and building code promulgated under section three hundred seventy-seven of the executive law, local building code standards approved by the uniform fire prevention.

EXPLANATION--Matter in <u>italics</u> (underscored) is new; matter in brackets
[] is old law to be omitted.

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tion and building code council under section three hundred seventy-nine of the executive law, and the building code of the city of New York, as defined in title twenty-seven of the administrative code of the city of New York.

"Constructed in a skillful manner" means that workmanship and materials meet or exceed the specific standards of the applicable building code. When the applicable building code does not provide a relevant specific standard, such term means that workmanship and materials meet Or exceed the standards of locally accepted building practices.

"Material defect" means actual physical damage to the following load-bearing portions of the home caused by failure of such load-bearing portions which affects their load-bearing functions to the extent that the home becomes unsafe, unsanitary or otherwise unliveable: foundation systems and footings, beams, girders, lintels, columns, walls and partitions, floor systems, and roof framing systems.

5. "New home" or "home" means any single family house or for-sale unit in a multi-unit residential structure of five stories or less in which title to the individual units is transferred to owners under a condominium or cooperative regime. Such terms do not include dwellings constructed solely for lease, mobile homes as defined in section seven hundred twenty-one of this chapter, or any house or unit in which the builder has resided or leased continuously for three years or more following the date of completion of construction, as evidenced by a certificate of occupancy.

6. "Owner" means the first person to whom the home is sold and, during the unexpired portion of the warranty period, each successor in title to the home and any mortgagee in possession. Owner does not include the builder of the home or any firm under common control of the builder.

"Plumbing, electrical, heating, cooling and ventilation systems" 1. shall mean:

a. in the case of plumbing systems: gas supply lines and fittings; water supply, waste and vent pipes and their fittings; septic tanks and their drain fields; water, gas and sewer service piping, and their extensions to the tie-in of a public utility connection, or on-site well and sewage disposal system;

b. in the case of electrical systems: all wiring, electrical boxes, switches, outlets and connections up to the public utility connection; and

in the case of heating, cooling and ventilation systems: all duct work, steam, water and refrigerant lines, registers, convectors, radiation elements and dampers.

8. "Warranty date" means the date of the passing of title to the first owner for occupancy by such owner or such owner's family as a residence, or the date of first occupancy of the home as a residence, whichever first occurs.

\$ 777-a. Housing merchant implied warranty. 1. Notwithstanding the provisions of section two hundred fifty-one of the real property law, a housing merchant implied warranty is implied in the contract or agreement for the sale of a new home and shall survive the passing of title. A housing merchant implied warranty shall mean that:

s. one year from and after the warranty date the home will be free from defects due to a failure to have been constructed in a skillful manner;

b. two years from and after the warranty date the plumbing, electrical, heating, cooling and ventilation systems of the home will be free

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I from defects due to a failure by the builder to have installed such sys-2 tems in a skillful manner; and

- c. six years from and after the warranty date the home will be free from material defects.
- 2. Unless the contract or agreement by its terms clearly evidences a different intention of the seller, a housing merchant implied warranty does not extend to:
- e. any defect that does not constitute (i) defective workmanship by the builder or by an agent, employee or subcontractor of the builder; (ii) defective materials supplied by the builder or by an agent, employee or subcontractor of the builder, or (iii) defective design provided by a design professional retained exclusively by the builder: or
- any patent defect which an examination ought in the circumstances to have revealed, when the buyer before taking title or accepting construction as complete has examined the home as fully as the buyer desired, or has refused to examine the home.
- 18 . 3. In the case of goods sold incidentally with or included in the sale 19 of the new home, such as stoves, refrigerators, freezers, room air conditioners, dishwashers, clothes washers and dryers, a housing merchant implied warranty shall mean that such goods shall be free from defects 22 due to failure by the builder or any agent, employee or subcontractor of the builder to have installed such systems in a skillful manner. Merchantability, fitness and all other implied warranties with respect to 25 goods shall be governed by part three of article two of the uniform commercial code and other applicable statutes.
- 4. a. Written notice of a warranty claim for breach of a housing merchant implied warranty must be received by the builder prior to the commencement of any action under paragraph b of this subdivision and no 30. later than thirty days after the expiration of the applicable warranty 31 period, as described in subdivision one of this section. The owner and 32 occupant of the home shall afford the builder reasonable opportunity to 33, inspect, test and repair the portion of the home to which the warranty claim relates.
- b. An action for damages or other relief caused by the breach of housing merchant implied warranty may be commenced prior to the expiration of one year after the applicable warranty period, as described in 38 <u>subdivision one of this section, or within four years after the warranty</u> 39 date, whichever is later. In addition to the foregoing, if the builder 40 makes repairs in response to a warranty claim under paragraph a of this 41 subdivision, an action with respect to such claim may be commenced 42 within one year after the last date on which such repairs are performed. 43 The measure of damages shall be the reasonable cost of repair or replacement and property damage to the home proximately caused by the breach of warranty, not to exceed the replacement cost of the home exclusive of the value of the land, unless the court finds that, under the circumstances, the diminution in value of the home caused by the defect is a more equitable measure of damages.
- c. In addition to any other period for the commencement of an action 50 permitted by law, an action for contribution or Indomnification may be commenced at any time prior to the expiration of one year after the en-52 try of judgment in an action for damages under paragraph b of this subdivision.
 - 5. Except as otherwise provided in section seven hundred seventyseven-b of this article, any provision of a contract or agreement for

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1 the sale of a new home which excludes or modifies a housing merchant implied warranty shall be void as contrary to public policy.

- 6. Except as otherwise provided in section seven hundred seventyseven-b of this article, other implied warranties may arise from the terms of the contract or agreement or from course of dealing or usage of trade.
- \$ 777-b. Exclusion or modification of warranties. 1. Except in the case of a housing merchant implied warranty, the builder or seller of a new home may exclude or modify all warranties by any clear and conspicuous terms contained in the written contract or agreement of sale which call the buyer's attention to the exclusion or modification of warranties and make the exclusion or modification plain.
- 2. Except in the case of a housing merchant implied warranty, the bulider or seller of a new home may exclude or modify warranties with
 respect to particular defects by any clear and conspicuous terms contained in the written contract or agreement of sale which identify such
 defects, call the buyer's attention to the exclusion or modification of
 warranties and make the exclusion or modification plain.
- 3. A housing merchant implied warranty may be excluded or modified by the builder or seller of a new home only if the buyer is offered a limited warranty in accordance with the provisions of this subdivision.
- a. A copy of the express terms of the limited warranty shall be provided in writing to the buyer for examination prior to the time of the buyer's execution of the contract or agreement to purchase the home.
- b. A copy of the express terms of the limited warranty shall be included in, or annexed to and incorporated in, the contract or agreement.
- c. The language of the contract or agreement for sale of the home must conspicuously mention the housing merchant implied warranty and provide that the limited warranty excludes or modifies the implied warranty. Language to exclude all implied warranties is sufficient if it states, for example, that "There are no warranties which extend beyond the face hereof."
- d. The limited warranty shall meet or exceed the standards provided in subdivisions four and five of this section.
- 4. A limited warranty sufficient to exclude or modify a housing merchant implied warranty must be written in plain English and must clearly disclose:
- a. that the warranty is a limited warranty which limits implied warranties on the sale of the home; the words "limited warranty" must be glearly and conspicuously captioned at the beginning of the warranty document;
 - b. the identification of the names and addresses of all warrantors;
- c. the identification of the party or parties to whom the warranty is extended and whether it is extended to subsequent owners; the limited warranty must be extended to the first owner of the home and survive the passing of title but may exclude any or all subsequent owners;
- d. a statement of the products or parts covered by the limited warranty;
- e. the clear and conspicuous identification of any parts or portions of the home or premises that are excepted or excluded from warranty coverage, and the standards that will be used to determine whether a defect has occurred; provided, however, that:
- I. any exception, exclusion or standard which does not meet or exceed a relevant specific standard of the applicable building code, or in the absence of such relevant specific standard a locally accepted building

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I practice, shall be void as contrary to public policy and shall be deemed 2 to establish the applicable building code standard or locally accepted building practice as the warranty standard; and

- ii. any exception, exclusion or standard that fails to ensure that the home is habitable, by permitting conditions to exist which render the home unsafe, shall be void as contrary to public policy.
- f. what the builder and any other warrantor will do when a defect covered by the warranty does arise, and the time within which the builder 9 and any other warrantor will act;
 - g. the term of the warranty coverage and when the term begins, provided, however, that such term shall be equal to or exceed the warranty periods of a housing merchant implied warranty, as defined in subdivision one of section seven hundred seventy-seven-a of this article;
 - h. step-by-step claims procedures required to be undertaken by the owner, if any, including directions for notification of the builder and any other warrantor; an owner shall not be required to submit to binding arbitration or to pay any fee or charge for participation in nonbinding arbitration or any mediation process;
- i. any limitations on or exclusions of consequential or incidental damages, and any limitations on the builder's and other warrantor's total liability, conspicuously expressed on the first page of the 22 warranty. Notwithstanding the foregoing, a limited warranty shall not be construed to permit any limitation on or exclusion of property damage to the home proximately caused by a breach of the limited warranty, where the court finds that such limitation or exclusion would cause the limited warranty to fail of its essential purpose, except that such property damage may be limited by an express limitation on the builder's or other warrantor's total liability in accordance with the provisions of this paragraph.
 - 5. a. This article shall not be construed to authorize or validate any covenant, promise, agreement or understanding which is void and unenforceable under section 5-322.1 of the general obligations law.
 - b. This article shell preempt any local law inconsistent with the provisions of this article. This article shall not preempt any builder subject to its provisions from complying with any local law with respect to the regulation of home builders except as expressly provided herein.
 - c. Nothing in this article shall be construed to repeal, invalidate, supersede or restrict any right, liability or remedy provided by any other statute of the state, except where such construction would, as a matter of law, be unreasonable.
 - \$ 2. Subdivision two of section two hundred thirteen of the civil practice law and rules, as amended by chapter four hundred three of the laws of nineteen hundred eighty-three, is amended to read as follows:
 - an action upon a contractual obligation or liability, express or implied, except as provided in section two hundred thirteen-a of this article or article 2 of the uniform commercial code or article 36-8 of the general business law:
- 5 3. This act shall take effect on the first day of March next suc-50 ceeding the date on which it shall have become a law and shall apply to new homes for which contracts of sale are entered into on and after such 52 effective date.

GUARD HILL MANOR HOMEOWNERS ASSOCIATION, INC.

LIMITED WARRANTY

NAME OF PURCHASER(S):		
ADDRESS OF PURCHASER(S):		
	•	
ADDRESS OF HOME WARRANTED:		•
NAME OF BUILDER:		
ADDRESS OF BUILDER:		
WARRANTY DATE:		
BUILDER'S LIMIT OF TOTAL LIABILITY:	\$100,000.00	
•		
THIS LIMITED WA ALL CONSEQUENTIAL AND EXCEPT AS REQUIRED BY		
I/WE AS PURCHASER(S) OF READ AND UNDERSTAND THE LIMITE		HAVE
Date	Pu	ırchaser
Date	Pı	ırchaser

LIMITED WARRANTY STATUTE

- 1. To Whom Given. This Limited Warranty is extended to the Purchaser named on page 1, while the purchaser owns the Home. It does not extend to subsequent owners of the Home or other persons.
- 2. By Whom Made. This Limited Warranty is made exclusively by the Builder whose name and address appear on page 1.
- 3. Final Inspection of the Home. Before the Purchaser moves into the Home or accepts the deed, the Builder will set up an appointment for final inspection of the Home with the Purchaser. The purpose of this final inspection is to discover any defects or flaws of a visable or obvious nature (such as mars, chips, dents, cracks, or scratches) that may have occurred during the final stages of finishing the home, or any unfinished work caused by back-orders beyond the Builder's control. The Builder may also point out other defects known to have occurred during the construction process and that remain uncorrected at the time of the inspection.

All defects or flaws found on final inspection of the Home will be itemized on a Final Inspection Sheet, which will include a schedule for each item that will be corrected. The Final Inspection Sheet will be signed by the Purchaser and the Builder before occupancy of the Home or transfer of the deed.

When the Purchaser moves into the Home or accepts the deed, the Builder's responsibility is limited to:

- (a) completion of items shown on the Final Inspection Sheet, as provided in the Final Inspection Sheet, and
- (b) performance of warranty obligations under the provisions of this Limited Warranty, as listed below. The purpose of the Limited Warranty is to identify the Builder's responsibilities for construction defects of a latent or hidden kind that would not have been found or disclosed on final inspection of the Home.
- 4. Limited Warranty. This Limited Warranty excludes all other warranties on the construction and sale of the Home and its components, both express and implied. There are no warranties which extend beyond the face hereof.
- 5. Warranty Coverages and Periods. The Warranty Period for all coverages begins on the Warranty Date shown on page 1. (This Warranty Date is the date that the

All systems are exclusive of appliances, fixtures and items of equipment.

SIX YEAR MAJOR STRUCTURAL DEFECT COVERAGE: for six years from the Warranty Date, the Home will be free from latent defects that are Major Structural Defects, as defined below, and that constitute:

- (a) defective workmanship performed by the Builder, er, an agent or the Builder or subcontractor of the Builder;
- (b) defective materials provided by the Builder, an agent of the Builder or subcontractor of the Builder; or
- (c) defective design, provided by an architect, landscape architect, engineer, surveyor, or other design professional engaged solely by the Builder.

Workmanship, materials, and design will be considered to be defective if they fail to meet or exceed the relevant standards and specifications of the New York State Uniform Fire Prevention and Building Code or if they fail to meet the Accepted Standards which are attached to this Limited Warranty.

A Major Structural Defect is a defect resulting in actual physical damage to the following load-bearing portions of the home caused by failure of such load-bearing portions which affects their load-bearing functions to the extent that the Home becomes unsafe, unsanitary or otherwise unlivable: foundation systems and footings, beams, girders, lintels, columns, walls and partitions, floor systems, and roof framing systems.

Damage to the following non-load bearing portions of the Home do not constitute a Material Defect for the Material Defect coverage: roofing and sheathing; drywall and plaster; exterior siding; brick, stone and stucco veneer; floor covering material; wall tile and other wall coverings; non-load bearing walls and partitions; concrete floors in attached garages and basements that are built separately from foundation walls or other structural elements of the Home; Electrical, Plumbing, Heating, Cooling and Ventilation systems; appliances, fixtures and items of equipment; paint; doors and windows; trim; cabinets; hardware; insulation.

- 6. Exclusions from All Coverages. The following are excluded from the Basic Coverage, Major System Coverage, and Major Structural Defect Coverage:
- (a) Loss or damage caused by workmanship performed by any person other than (i) the Builder, (ii) an agent of the Builder, or (iii) a subcontractor of the Builder.
- (b) Loss or damage caused by defective materials supplied by any person other than (i) the Builder, (ii) an

purchaser, or member of the purchaser's family, takes title to the Home or any person begins residential occupancy of the Home, whichever date is earlier). It ends at the expiration of the coverages shown below:

FIRST YEAR BASIC COVERAGE: for one year from the Warranty Date, the Home will be free from latent defects that constitute:

- (a) defective workmanship performed by the Builder, an agent or the Builder or subcontractor of the Builder;
- (b) defective materials provided by the Builder, an agent or the Builder or subcontractor of the Builder; or
- (c) defective design, provided by an architect, landscape architect, engineer, surveyor, or other design professional engaged solely by the Builder.

Workmanship, materials, and design will be considered to be defective if they fail to meet or exceed the relevant standards and specifications of the New York State Uniform Fire Prevention and Building Code or if they fail to meet the Accepted Standards which are attached to this Limited Warranty.

TWO YEAR MAJOR SYSTEM COVERAGE: for two years from the Warranty Date, the Plumbing, Electrical, Heating, Cooling and Ventilation Systems of the Home which have been installed by the Builder are warranted to be free from latent defects that constitute defective installation by the Builder.

Installation will be considered to be defective if the Builder's workmanship upon the installation fails to meet or exceed the relevant standards and specifications of the New York State Uniform Fire Prevention and Building Code and the Accepted Standards which are attached to this Limited Warranty.

The Plumbing System means: gas supply lines and fittings; water supply, waste and vent pipes and their fittings; septic tanks and their drain fields; water, gas and sewer service piping, and their extensions to the tie-in of a public utility connection, or on-site well and sewage disposal system.

The Electrical System means: all wiring, electrical boxes, switches, outlets and connections up to the public utility connection.

The Heating, Cooling and Ventilation System means: all duct work, steam, water and refrigerant lines, registers, convectors, radiation elements and dampers.

agent of the Builder, or (iii) a subcontractor of the Builder.

- (c) Loss or damage caused by defective design provided by any person other than a design professional retained exclusively by the Builder.
- (d) Patent defects including defects shown on the Final Inspection Sheet and defects which an examination of the Home prior to acceptance of the deed or occupancy of the Home ought to have revealed.
- (e) Defects in outbuildings including but not limited to detached garages and detached carports (except outbuildings which contain the Plumbing, Electrical, Heating, Cooling or Ventilation systems serving the home); site located swimming pools and other recreational facilities; driveways; walkways; patios; boundary walls; retaining walls; bulkheads; fences; landscaping (including sodding; seeding, shrubs, trees and plantings); off-site improvements or any other improvements not a part of the Home itself.
- (f) After the first year Basic Coverage, concrete floors of basements and concrete floor of attached garages that are built separately from foundation walls or other structural elements of the Home.
- (g) Damage to real property which is not part of the Home covered by this Limited Warranty and which is not included in the purchase price of the Home.
- (h) Any damage to the extent that it is caused or made worse by:
- (i) negligence, improper maintenance, or improper operation by anyone other than the Builder, its employees, agents, or subcontractors; or
- (ii) failure by the Purchaser or anyone other than the Builder, its employees, agents or subcontractors, to comply with the warranty requirements of manufacturers or suppliers of appliances, fixtures or items of equipment; or
- (iii) failure of the Purchaser to give notice to the Builder of any defects or damage within a reasonable time; or
- (iv) changes in the grading of the ground by anyone other than the Builder, its employees, agents or subcontractors; or
- (v) changes, alterations or additions made to the Home by anyone after the Warranty Date shown on page l; or

- (vi) dampness or condensation due to failure of the Purchaser or occupant to maintain adequate ventilation.
- (i) Any condition which does not result in actual physical damage to the Home.
- (j) Loss or damage caused by or resulting from accidents, riot and civil commotion, fire, explosion, smoke, water escape, falling objects, aircraft, vehicles, Acts of God, lightning, windstorm, hail, flood, mudslide, earthquake, volcanic eruption, wind-driven water, and not reasonably forseeable changes in the underground water table.
- (k) Any damage caused by soil movement for which compensation is provided by legislation or which is covered by other insurance.
- (1) Any damage which the Home Owner has not taken timely action to minimize.
- (m) Normal wear and tear and normal deterioration.
 - (n) Insect damage.
 - (o) Bodily injury or damage to personal property.
- (p) Failure of the Builder to complete construction of the Home.
- (q) Loss or damage when which arises while the Home is being used primarily for nonresidential purposes.
- (r) Loss or damage due to abnormal loading on floors by the Home Owner which exceeds design loads as mandated by the Building Code.
- (s) Costs of shelter, transportation, food, moving, storage or other incidental expenses related to relocation during repair.
- (t) Consequential damges (except where required by state law).
- (u) Any claim not filed in a manner set forth below in paragraph 8, "Step-by-Step Claims Procedures".
- 7. Warranty. If a defect occurs in an item covered by this Limited Warranty, the Builder will repair, replace or pay the Purchaser the reasonable cost of repairing or replacing the defective item(s) within a reasonable time after the Builder's inspection or testing discloses the

problem. The choice among repair, replacement or payment is solely that of the Builder.

In no event will the Builder's total liability for deficiencies under this Limited Warranty exceed the Builder's Limit of Total Liability, shown on page 1.

Repair, replacement or payment of reasonable cost for any Major Structural Defect is further limited to (1) the repair of damage to the load-bearing portions of the Home themselves which is necessary to restore their load-bearing function; and (2) the repair of those items of the Home damaged by the Major Structural Defect which made the Home unsafe, unsanitary or otherwise unlivable, excluding personal property.

When the Builder finishes repairing or replacing the defect or pays the reasonable cost of doing so, a full release of all legal obligations with respect to the defect must be signed and delivered to the Builder.

- 8. Step-by-Step Claims Procedures. (a) Written notice of any warranty claim must be made on the attached "Notice of Warranty Claim Form" and must be received by the Builder, identified on page 1, no later than the first business day after warranty coverage on that item expires. If this Notice of Warranty Claim Form is not properly completed and received by the Builder by that deadline, the Builder will have no duty to respond to any complaint or demand, and any or all claims may be rejected. NOTICE OF WARRANTY CLAIM IS NECESSARY TO PROTECT RIGHTS TO WARRANTY PERFORMANCE UNDER THIS LIMITED WARRANTY.
- (b) No steps taken by the Builder, Purchaser or any other person to inspect, test or correct defects will extend any time period under this Limited Warranty. The Builder's response to any complaint or request, other than a timely and properly completed Notice of Warranty Claim, will not impair, prejudice or otherwise affect any right of the Builder, including but not limited to the Builder's right to receive a timely and properly completed Notice of Warranty Claim.
- (c) In response to a Notice of Warranty Claim, or any other complaint or request of the Purchaser, the Builder and the Builder's agents will have the right to inspect and test the portion of the Home to which the claim, complaint or request relates. The Purchaser and occupants of the Home must provide reasonable access to the Builder and the Builder's agents during normal business hours to complete inspection, testing and repair or replacement.
- (d) The Builder will complete inspection and testing within a reasonable time under the circumstances, not to

exceed thirty (30) days after receipt of a timely and properly completed Notice of Warranty Claim Form. Upon completion of inspection and testing, the Builder will determine whether to accept or reject the claim. If the Builder rejects the claim, the Builder will give written notice of that decision to the claimant at the address shown on the Notice of Claim Form. The Builder will use good faith efforts to process and handle claims in a timely manner, but all time periods for repair or replacement of defects necessarily are subject to weather conditions, Acts of God, availability of materials, and other events beyond the Builder's control.

- 9. Legal Actions. (a) No claim or cause of action under this Limited Warranty may be commenced or asserted in any suit, action, or other legal proceeding against the Builder in any Court or forum unless notice of the claim or cause of action has been received by the Builder in a timely and properly completed Notice of Warranty Claim Form as provided in paragraph 8 above.
- (b) No suit, action and proceeding against the Builder under this Limited Warranty may be commenced in any Court or forum after the later of: (i) the date of expiration of the applicable warranty coverage under paragraph 5 of this Limited Warranty, or (ii) sixty calendar days after the Warrantor has given written notice of rejection of claim or completion of corrective action as provided in clause 8(d) above.
- 10. General Provisions. (a) This Limited Warranty may not be changed or amended in any way.
- (b) This Limited Warranty is to be binding upon the Builder and the Purchaser, their heirs, executives, adminsitrators, successors and assigns.
- (c) Should any provision of the Limited Warranty be deemed unenforceable by a court of competent jurisdiction, the determination will not affect the enforceability of the remaining provisions.
- (d) Use of one gender in this Limited Warranty includes all other genders, and use of the plural includes the singular, as may be appropriate.
- (e) This Limited Warranty is to be governed in accordance with the laws of New York State.

NOTICE OF WARRANTY CLAIM FORM

Dear Home Owner:

To ask the Builder to correct a defect in your Home that you think is covered by the Builder's Limited Warranty, you must complete this form and deliver it to the Builder. This is necessary to protect your rights to warranty performance under the Limited Warranty. Even if you believe that the Builder is aware of the problem, fill out this form and deliver it to the Builder.

The information you will need to fill out the form will be on page I of the Limited Warranty. However, if you do not know the answers to any questions, write "Don't know". Please do not leave any item blank.

Your Name:	
Mailing Address:	
Telephone Number:	
Limited Warranty No.:	
Warranty Date:	
the Limited Warranty. Be first occurred or when y	t(s) which you think are covered by sure to include when each defect ou first noticed it. Use additional fully describe the problem:
Protesta de la companya de la compa	
(signature)	(date)
(signature)	(date)

ACCEPTED STANDARDS

TOPIC INDEX

The Performance Standards list specific items (defects) within each separate area of coverage. The first section covers Workmanship and Materials; the second section covers Systems. The standards are expressed in terms of performance criteria. For easy comprehension, the format is designed as follows:

- 1. Possible Deficiency a brief statement, in simple terms, of problems that may be encountered.
- 2. Performance Standard a performance standard relating to a specific deficiency.
- 3. Responsibility a statement of the corrective action required of the Builder to repair the deficiency or a statement of the Home Owner's maintenance responsibilities.

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PERFORMANCE STANDARDS

1. SITE WORK: COVERAGE 1ST YEAR ONLY, WORKMANSHIP AND MATERIALS

A. Site Grading

(1) Possible Deficiency: Setting of ground around foundation, utility trenches or other areas.

Performance Standard: Setting of ground around foundation walls, utility trenches or other filled areas shall not interfere with water drainage away from the Home.

Responsibility: If the Builder has provided final

grading: upon request by the Home Owner, Builder shall fill settled areas affecting proper drainage, one time only, during the first year of the Limited Warranty period. Home Owner shall be responsible for removal and replacement of shrubs or other landscaping affected by placement of such fill.

B. Site Drainage

Performance Standard: The necessary grades and swales shall have been established by the Builder to insure proper drainage away from the Home. Standing or ponding water shall not remain for extended periods in the immediate area after a rain (generally no more than 24 hours), except that in swales which drain other areas, or in areas where sump pumps discharge, a longer period can be anticipated (generally no more than 48 hours). The possibility of standing water after an unusually heavy rainfall should be anticipated. No grading determination shall be made while there is frost or snow on the ground, or while the ground is saturated.

Responsibility: The Builder is responsible only for initially establishing the proper grades and swales. The Homeowners Association, Inc., is responsible for maintaining such grades and swales once they have been properly established.

2. CONCRETE: COVERAGE 1ST YEAR ONLY, WORKMANSHIP AND MATERIALS

A. Expansion and Contraction Joints

(1) Possible Deficiency: Separation or movement of concrete slabs within the structure at expansion and contraction joints.

Performance Standard: Concrete slabs within the structure are designed to move at expansion and contraction joints.

Responsibility: None.

B. Cast-in-Place Concrete

(1) Possible Deficiency: Basement or foundation wall cracks.
Performance Standard: Shrinkage cracks are not unusual
in concrete foundation walls. Such cracks greater than 1/8 inch in
width shall be repaired.

Responsibility: Builder will repair cracks in excess of 1/8 inch wide.

(2) Possible Deficiency: Cracking of basement floor.

Performance Standard: Minor cracks in basement floors are normal. Cracks exceeding 3/16 inch in width or 1/8 inch in verticle displacement shall be repaired.

Responsibility: Builder will repair cracks exceeding

maximum tolerances by surface patching or other methods as required.

(3) Possible Deficiency: Cracking of slab in attached garage.
Performance Standard: Cracks in garage slabs in excess
of 1/4 inch in width or 1/4 inch in vertical displacement shall be
repaired.

Responsibility: Builder will repair cracks exceeding maximum tolerances by surface patching or other methods as required.

(4) Possible Deficiency: Uneven concrete floors/slabs.

Performance Standard: Except for basement floors or where a floor or portion of floor has been designed for specific drainage purposes, concrete floors in rooms designed for habitability shall not have pits, depressions, or areas of unevenness exceeding 1/4 inch in 32 inches.

Responsibility: Builder will correct or repair to meet the Performance Standard.

(5) Possible Deficiency: Cracks in concrete slab-on-grade floors with finish flooring.

Performance Standard: Cracks which rupture the finish flooring material shall be repaired.

Responsibility: Builder will repair cracks, as necessary, so as not to be readily apparent when the finish flooring material is in place. (See also Performance Standard 7, "Finishes".)

(6) Possible Deficiency: Pitting, scaling or spalling of concrete work covered by this Limited Warranty.

Performance Standard: Concrete surfaces shall not disintegrate to the extent that the aggregate is exposed and loosened under normal conditions of weathering and use.

Responsibility: Builder will take whatever corrective action necessary to repair or replace defective concrete surfaces. Builder is not responsible for deterioration caused by salt, chemicals, mechanical implements and other factors beyond its control.

(7) Possible Deficiency: Settling, heaving or separating of stoops, steps or garage floors.

Performance Standard: Stoops, steps or garage floors shall not settle, heave or separate in excess of l inch from the house structures.

Responsibility: Builder will take whatever corrective action is required to meet the Performance Standard.

(8) Possible Deficiency: Standing water on stoops.

Performance Standard: Water should drain from outdoor stoops and steps. The possibility of minor water standing on

stoops for a short period after rain can be anticipated.

Responsibility: Builder shall take corrective action to assure drainage of steps and stoops.

3. MASONRY: COVERAGE: 1ST YEAR ONLY, WORKMANSHIP AND MATERIALS

A. Unit Masonry

(1) Possible Deficiency: Basement or foundation wall cracks.
Performance Standard: Small cracks not affecting
structural stability are not unusual in mortar joints of masonry
foundation walls. Cracks greater than 1/8 inch in width shall be
repaired.

Responsibility: Builder will repair cracks in excess of 1/8 inch by pointing or patching. These deficiencies shall be reported and repairs made during the first year of the Limited Warranty period.

(2) Possible Deficiency: Cracks in masonry wall or veneer.

Performance Standard: Small hairline cracks due to shrinkage are common in mortar joints in masonry construction. Cracks greater than 3/8 inch in width are considered excessive.

Responsibility: Builder will repair cracks in excess of Performance Standard by pointing or patching. These repairs shall be made during the first year of the Limited warranty period. Builder will not be responsible for color variation between old and new mortar.

4. WOOD AND PLASTIC: COVERAGE IST YEAR ONLY, WORKMANSHIP AND MATERIALS

A. Rough Carpentry

(1) Possible Deficiency: Floors squeak or subfloor appears loose.

Performance Standard: Floor squeaks and loose subfloor are often temporary conditions common to new construction, and a squeak-proof floor cannot be quaranteed.

Responsibility: Builder will correct the problem only if caused by an underlying construction defect.

(2) Possible Deficiency: Uneven wood floors.

Performance Standard: Floors shall not have more than 1/4 inch ridge or depression within any 32 inch measurement when measured parallel to the joists. Allowable floor and ceiling joist deflections are governed by the applicable building code.

Responsibility: Builder will correct or repair to meet Performance Standard.

(3) Possible Deficiency: Bowed walls.

Performance Standard: All interior and exterior walls have slight variances on their finished surfaces. Bowing of walls should not detract from or blemish the wall's finished surface. Walls should not bow more than 1/4 inch out of line within any 32 inch horizontal or vertical measurement.

Responsibility: Builder will repair to meet Performance Standard.

Possible Deficiency: Out-of-plumb walls. (4) Performance Standard: Walls should not be more than 1/4 inch out of plumb for any 32 inch vertical measurement. Responsibility: Builder will repair the Performance Standard.

Finish Carpentry (Interior) B.

Possible Deficiency: Poor quality of interior trim workmanship.

Performance Standard: Joints in moldings or joint between moldings and adjacent surface shall not result in open joints exceeding 3/8 inch in width.

Responsibility: Builder will repair defective joints, as Caulking is acceptable. defined.

Finish Carpentry (Exterior) C.

(1) Possible Deficiency: Poor quality of exterior trim workmanship.

Joints between exterior trim Performance Standard: elements, including siding and masonry, shall not result in open joints in excess of 3/8 inch. In all cases the exterior trim, masonry and siding shall be capable of performing its function to exclude the elements.

Responsibility: Builder will repair open joints, as Caulking is acceptable.

THERMAL AND MOISTURE: COVERAGE 1ST YEAR ONLY, WORKMANSHIP AND 5. MATERIALS

Waterproofing Α.

Possible Deficiency: Leaks in basement.

Performance Standard: Leaks resulting in actual trickling of water shall be repaired. Leaks caused by improper landscaping or failure to maintain proper grades are not covered by this Limited Warranty. Dampness of the walls or floors may occur in new construction and is not considered a deficiency.

Responsibility: Builder will take such action necessary to correct basement leaks except where the cause is determined to result from Home Owner action or negligence.

B. Insulation

(I) Possible Deficiency: Insufficient insulation
Performance Standard: Insulation shall be installed in
accordance with applicable energy and building code requirements.
Responsibility: Builder will install insulation in
sufficient amounts to meet Performance Standard.

C. Louvers and Vents

(1) Possible Deficiency: Leaks due to snow or rain driven into the attic through louvers or vents.

Performance Standard: Attic vents and/or louvers must be provided for proper ventilation of the attic space of the structure.

Responsibility: None.

D. Roofing and Siding

(1) Possible Deficiency: Ice build-up on roof.

Performance Standard: During prolonged cold spells, ice build-up is likely to occur at the eaves of a roof. This condition occurs when snow and ice accumulate and gutters and downspouts freeze up.

Responsibility: Prevention of ice build-up on the roof is a Home Owner maintenance item.

(2) Possible Deficiency: Roof or flashing leaks.

Performance Standard: Roofs or flashing shall not leak under normally anticipated conditions, except where cause is determined to result from ice build-up or Home Owner action or negligence.

Responsibility: Builder will repair any verified roof or flashing leaks not caused by ice build-up or Home Owner action or negligence.

(3) Possible Deficiency: Standing water on flat roof.

Performance Standard: Water shall drain from flat roof except for minor ponding immediately following rainfall or when the roof is specifically designed for water retention.

Responsibility: Builder will take corrective action to assure proper drainage of roof.

(4) Possible Deficiency: Delamination of veneer siding or toint separation.

Performance Standard: All siding shall be installed according to the manufacturer's and industry's accepted standards. Separations and delaminations shall be repaired or replaced.

Responsibility: Builder will repair or replace siding as needed unless caused by Home Owner's neglect to maintain siding

properly. Repaired area may not match in color and/or texture. For surfaces requiring paint, Builder will paint only the new materials. The Home Owner can expect that the newly painted surface may not match original surface in color.

E. Sheet Metal

(1) Possible Deficiency: Gutters and/or downspouts leak.

Performance Standard: Gutters and downspouts shall not leak but gutters may overflow during heavy rain.

Responsibility: Builder will repair leaks. It is a Home Owner responsibility to keep gutters and downspouts free of leaves and debris which could cause overflow.

(2) Possible Deficiency: Water standing in gutters.

Performance Standard: When gutter is unobstructed by debris, the water level shall not exceed one (1) inch in depth. Industry practice is to install gutters approximately level. Consequently, it is entirely possible that small amounts of water will stand in certain sections of gutter immediately after a rain.

Responsibility: Builder will correct to meet Performance Standard.

F. Sealants

(1) Possible Deficiency: Leaks in exterior wall due to inadequate caulking.

Performance Standard: Joints and cracks in exterior wall surfaces and around openings shall be properly caulked to exclude the entry of water.

Responsibility: Builder will repair and/or caulk joints or cracks in exterior wall surfaces as required to correct deficiencies once, during the first year of the Limited Warranty period. Even properly installed caulking will shrink and must be maintained during the life of the Home.

6 DOORS AND WINDOWS: COVERAGE 1ST YEAR ONLY, WORKMANSHIP AND MATERIALS

A. Wood and Plastic Doors

(1) Possible Deficiency: Warpage of exterior doors.

Performance Standard: Exterior doors will warp to some degree due to temperature differential on inside and outside surfaces. However, they shall not warp to the extent that they become inoperable or cease to be weather resistant or exceed National Woodwork Manufacturers Association Standards (1/4 inch, measured diagonally from corner to corner).

Responsibility: Builder will correct or replace and refinish defective doors, during the first year of the Limited

Warranty period.

(2) Possible Deficiency: Warpage of interior passage and closet doors.

Performance Standard: Interior doors (full openings) shall not warp in excess of National Woodwork Manufacturers Association Standards (1/4 inch measured diagonally from corner to corner).

Responsibility: Builder will correct or replace and refinish defective doors to match existing doors as nearly as possible, during the first year of the Limited Warranty period.

Possible Deficiency: Shrinkage of insert panels show raw wood edges.

Performance Standard: Panels will shrink and expand and may expose unpainted surface.

Responsibility: None.

Possible Deficiency: Split in door panel. Performance Standard: Split panels shall not allow light to be visible through the door.

Responsibility: Builder will, if light is visible, fill split and match paint or stain as closely as possible, one time in first year of the Limited Warranty period.

B. Glass

Possible Deficiency: Broken glass.

Performance Standard: None.

Responsibility: Broken glass not reported to Builder prior to closing is the Home Owner's responsibility.

- Garage Doors on Attached Garages C.
- (1) Possible Deficiency: Garage doors fail to operate properly, under normal use. operate shall Garage doors Performance Standard:

properly.

Responsibility: Builder will correct or adjust garage doors as required, except where the cause is determined to result from Home Owner action or negligence.

(2) Possible Deficiency: Garage doors allow entrance of snow or water.

Performance Standard: Garage doors shall be installed as recommended by the manufacturer. Some entrance of the elements can be expected under abnormal conditions.

Responsibility: Builder will adjust or correct garage

doors to meet manufacturer's recommendations.

D. Wood, Plastic and Metal Windows

(1) Possible Deficiency: Malfunction of windows. Performance Standard: Windows reasonable ease, as designed. shall operate Responsibility: Builder will correct or required. repair as

(2) Possible Deficiency: Condensation and/or windows. frost

Performance Standard: Windows will collect condensation on interior surfaces when extreme temperature differences and high humidity levels are present. Condensation is usually the result of climatic/humidity conditions, created by the Home Owner.

Responsibility: Unless directly attributed to faulty installation, window condensation is a result of conditions beyond the Builder's control. No corrective action required.

E_{+} Weatherstripping and Seals

- Possible Deficiency: Air infiltration around doors and windows.
- Performance Standard: Some infiltration is normally noticeable around doors and windows, especially during high winds. Poorly fitted weatherstripping shall be adjusted or replaced. may be necessary for the Home Owner to have storm doors and windows installed to provide satisfactory solutions in high wind areas.

Responsibility: Builder will adjust or correct poorly fitted doors, windows and poorly fitted weatherstripping.

FINISHES: COVERAGE IST YEAR ONLY, WORKMANSHIP AND MATERIALS

Lath and Plaster

Possible Deficiency: Cracks in interior wall and ceiling (1)surfaces.

Performance Standard: Hairline cracks are not unusual in interior wall and ceiling surfaces. Cracks greater than 1/8 inch in width shall be repaired.

Responsibility: Builder will repair cracks exceeding 1/8 inch in width as required one time only, during the first year of the Limited Warranty period. (See also Performance Standard 7.F,

В. Gypsum Wallboard

(1) Possible Deficiency: Defects which appear during first year of the Limited Warranty such as nail pops, blisters in tape, or other blemishes.

Performance Standard: Slight "imperfections" such as nail

pops, seam lines and cracks not exceeding 1/8 inch in width are common in gypsum wallboard installations and are considered acceptable.

Responsibility: Builder will repair only cracks exceeding 1/8 inch in width, one time only, during the first year of the Limited Warranty period. (See also Performance Standard 7.F, "Painting.")

C. Ceramic Tile

(1) Possible Deficiency: Ceramic tile cracks or becomes loose.

Performance Standard: Ceramic tile shall not crack or become loose.

Responsibility: Builder will replace cracked tiles and re-secure loose tiles unless the defects were caused by the Home Owner action or negligence. Builder will not be responsible for discontinued patterns or color variations in ceramic tile.

(2) Possible Deficiency: Cracks appear in grouting of ceramic tile joints or at junctions with other materials such as a bathtub.

Performance Standard: Cracks in grouting of ceramic tile joints are commonly due to normal shrinkage conditions.

Responsibility: Builder will repair grouting if necessary one time only, during the first year of the Limited Warranty period. Builder will not be responsible for color variations or discontinued colored grout. Regrouting of these cracks is a maintenance responsibility of the Home Owner within the life of the Home.

D. Finished Wood Flooring

(1) Possible Deficiency: Cracks developing between floor boards.

Performance Standard: Cracks in excess of 1/4 inch in width shall be corrected.

Responsibility: Builder will repair cracks in excess of 1/4 inch within the first year of the Limited Warranty period, by filling or replacing, at Builder's option.

E. Resilient Flooring

(1) Possible Deficiency: Nail pops appear on the surface of resilient flooring.

Performance Standard: Readily apparent nail pops shall be repaired.

Responsibility: Builder will correct nail pops which have broken the surface. Builder will repair or replace, at Builder's sole option, resilient floor covering in the affected area with similar material. Builder will not be responsible for discontinued

patterns or color variations in the floor covering.

(2) Possible Deficiency: Depressions or ridges appear in the resilient flooring due to subfloor irregularities.

Performance Standard: Readily apparent depressions or ridges exceeding 1/8 inch shall be repaired. The ridge or depression measurement is taken as the gap created at one end of a six-inch straightedge placed over the depression or ridge with three inches of the straightedge on one side of the defect, held tightly to the floor.

Responsibility: Builder will take corrective action as necessary, to bring the defect within acceptable tolerance so that the affected area is not readily visible. Builder will not be responsible for discontinued patterns or variations in floor covering.

(3) Possible Deficiency: Resilient flooring loses adhesion.
Performance Standard: Resilient flooring shall not lift,
bubble or become unglued.

Responsibility: Builder will repair or replace, at Builder's sole option, the affected resilient flooring as required. Builder will not be responsible for discontinued patterns or color variation of floor covering, or for problems caused by Home Owner neglect or abuse.

(4) Possible Deficiency: Seams or shrinkage gaps show at resilient flooring joints.

Performance Standard: Gaps shall not exceed 1/16 inch in width in resilient floor covering joints. Where dissimilar materials abut, a gap not to exceed 1/8 inch is permissible.

Responsibility: Builder will repair or replace, at Builders sole option, the affected resilient flooring as required. Builder will not be responsible for discontinued patterns or color variation of floor covering, or for problems caused by Home Owner neglect or abuse.

F. Painting

(1) Possible Deficiency: Exterior paint or stain peels, deteriorates or fades.

Performance Standard: Exterior paints or stains should not fail during the first year of the Limited Warranty period. However, fading is normal and the degree is dependent on climatic conditions.

Responsibility: If paint or stain is defective, Builder will properly prepare and refinish affected areas, matching color as close as possible. Where finish deterioration affects the majority of the wall area, the whole area will be refinished.

(2) Possible Deficiency: Painting required as corollary

repair because of other work.

Performance Standard: Repairs required under this Limited Warranty shall be finished to match surrounding areas as closely as practicable.

Responsibility: Builder will finish repair areas as

indicated.

(3) Possible Deficiency: Deterioration of varnish or lacquer.
Performance Standard: Natural finishes on interior
woodwork shall not deteriorate during the first year of the Limited
Warranty period. However, varnish type finishes used on the
exterior will deteriorate rapidly and are not covered by the
Limited Warranty.

Responsibility: Builder will retouch affected areas of natural finish interior woodwork, matching the color as closely as

possible.

(4) Possible Deficiency: Mildew or fungus on painted surfaces.

Performance Standard: Mildew or fungus will form on a painted surface if the structure is subject to abnormal exposures (i.e., rainfall, ocean, lake or river front.)

Responsibility: Mildew or fungus formation is a condition the Builder cannot control and is a Home Owner maintenance item unless it is a result of noncompliance with other sections of the Performance Standard.

G. Wall Covering

(1) Possible Deficiency: Peeling of wall covering.
Performance Standard: Peeling of wall covering shall not occur.

Responsibility: Builder will repair or replace defective wall covering applications.

(2) Possible Deficiency: Edge mismatching in pattern of wall covering.

Performance Standard: None. Responsibility: None.

H. Carpeting

- (1) Possible Deficiency: Open carpet seams.
 Performance Standard: Carpet seams will show. However,
 no visible gap is acceptable.
 Responsibility: Builder will correct.
- (2) Possible Deficiency: Carpeting becomes loose, seams separate or stretching occurs.

 Performance Standard: Wall to wall carpeting, installed

as the primary floor covering, when stretched and secured properly shall not come up, become loose, or separate form its point of attachment.

Responsibility: Builder will re-stretch or re-secure carpeting as needed, if original installation was performed by Builder.

(3) Possible Deficiency: Spots on carpet, minor fading.
Performance Standard: Exposure to light may cause spots
on carpet and/or minor fading.
Responsibility: None.

I. Special Coatings

(1) Possible Deficiency: Cracks in exterior stucco wall surfaces.

Performance Standard: Cracks are not unusual in exterior stucco wall surfaces. Cracks greater than 1/8 inch in width shall be repaired.

Responsibility: Builder will repair cracks exceeding 1/8 inch in width, one time only, during the first year of the Limited Warranty period.

8. SPECIALTIES: COVERAGE 1ST YEAR ONLY, WORKMANSHIP & MATERIALS

A. Louvers and Vents

(1) Possible Deficiency: Inadequate ventilation of attics and crawl spaces.

Performance Standard: Attic and crawl spaces shall be ventilated as required by the approved building code.

Responsibility: The Builder shall provide for adequate ventilation. Builder will not be responsible for alterations to the original system.

B. Fireplaces

(1) Possible Deficiency: Fireplace or chimney does not draw properly.

Performance Standard: A properly designed and constructed fireplace and chimney shall function properly. It is normal to expect that high winds can cause temporary negative draft situations. Similar negative draft situations can also be caused by obstructions such as a large branches of trees too close to the chimney. Some homes may need to have a window opened slightly to create an effective draft, if they have been insulated and weatherproofed to meet high energy conservation criteria.

Responsibility: Builder will determine the cause of malfunction and correct, if the problem is one of design or construction of the fireplace.

(2) Possible Deficiency: Chimney separation from structureot which it is attached.

Performance Standard: Newly built fireplaces will often incur slight amounts of separation. Separation shall not exceed 1/2 inch from the main structure in any 10 foot vertical measurement.

Responsibility: Builder will determine the cause of separation and correct if standard is not met. Caulking is acceptable.

- (3) Possible Deficiency: Firebox paint changed by fire.
 Performance Standard: None.
 Responsibility: None. Heat from fires will alter finish.
- (4) Possible Deficiency: Cracked firebrick and mortar joints.

 Performance Standard: None.

 Responsibility: None. Heat and flames from "roaring" fires will cause cracking.

9. EQUIPMENT: COVERAGE 1ST YEAR ONLY, WORKMANSHIP AND MATERIALS

A. Residential Equipment

(1) Possible Deficiency: Surface Cracks, point delaminations and chips in high pressure laminates on vanity and kitchen cabinet countertops.

Performance Standard: Countertops fabricated with high pressure laminate coverings shall not delaminate.

Responsibility: Builder will replace delaminated coverings to meet specified criteria. Builder will not be responsible for chips and cracks noted following first occupancy.

(2) Possible Deficiency: Kitchen cabinet malfunctions.

Performance Standard: Warpage not to exceed 1/4 inch as measured from face frame to point of furthermost warpage with door or drawer front closed position.

Responsibility: Builder will correct or replace doors or drawer fronts.

(3) Possible Deficiency: Gaps between cabinets, ceiling or walls.

Performance Standard: Acceptable tolerance 1/4 inch in width.

Responsibility: Builder will correct to meet Performance Standard.

10. PLUMBING: COVERAGE: 1ST YEAR COLLY WORKMANSHIP AND MATERIALS

A. Water Supply System

(1) Possible Deficiency: Plumbing pipes freeze and burst.
Performance Standard: Drain, waste and vent, and water
pipes shall be adequately protected, as required by applicable
code, during normally anticipated cold weather, and as defined in
accordance with ASHREA design temperatures, to prevent freezing.

Responsibility: Builder will correct situations not meeting the code. It is the Home Owner's responsibility to drain or otherwise protect lines and exterior faucets exposed to freezing temperatures.

B. Plumbing System

(1) Possible Deficiency: Faucet or valve leak.

Performance Standard: No valve or faucet shall leak due to defects in workmanship and materials.

Responsibility: Builder will repair or replace the leaking faucet or valve.

(2) Possible Deficiency: Defective plumbing fixtures, appliances or trim fittings.

Performance Standard: Fixtures, appliances or fittings shall comply with their manufacturer's standards.

Responsibility: Builder will replace any defective fixture or fitting which does not meet acceptable standards, as defined by manufacturer.

(3) Possible Deficiency: Noisy water pipes.

Performance Standard: There will be some noise emitting from the water pipe system, due to the flow of water. However, water hammer shall be eliminated.

Responsibility: Builder cannot remove all noises due to water flow and pipe expansion. Builder will correct to eliminate "water hammer".

(4) Possible Deficiency: Cracking or chipping of porcelain or fiberglass surfaces.

Performance Standard: Chips and cracks on surfaces of bathtubs and kitchen sinks can occur when surface is hit with sharp or heavy objects.

Responsibility: Builder will not be responsible for repairs unless damage has been reported to Builder prior to first occupancy.

11. HEATING AND COOLING: COVERAGE 1ST YEAR ONLY, WORKMANSHIP AMTERIALS

A. Heating

(1) Possible Deficiency: Inadequate heating
Performance Standard: Heating system shall be capable of
producing an inside temperature of 68° F, when the outside temperature is at 0° F and the wind velocity is less than 10 mph, as
measured in the center of each room at a height of 5 feet above the floor.
Federal, state or local energy codes shall supersede this standard
where such codes have been locally adopted.

Responsibility: Builder will correct heating system to provide the required temperatures. However, the Home Owner shall be responsible for balancing dampers, registers and other minor adjustments.

B. Refrigeration

Responsibility: Builder will correct cooling system to meet temperature conditions, in accordance with specifications.

C. Condensation Lines

(1) Possible Deficiency: Condensation lines clog up. Performance Standard: None.

Responsibility: Condensation lines will clog eventually under normal use. This is a Home Owner maintenance item. Builder shall provide unobstructed condensation lines at time of first occupancy.

D. Evaporative Cooling

(1) Possible Deficiency: Improper mechanical operation.

Performance Standard: Equipment shall function properly at temperature standard set.

Responsibility: Builder will correct and adjust so that blower and water system operate as designed.

12. VENTILATION: COVERAGE 1ST YEAR, WORKMANSHIP AND MATERIALS

A. Air Distribution

(1) Possible Deficiency: Noisy ductwork.

Performance Standard: When metal is heated it expands and when cooled it contracts. The result is "ticking" or "cracking" which is generally to be expected.

Responsibility: None.

(2) Possible Deficiency: Oilcanning.
Performance Standard: The stiffening of the ductwork and the gauge of the metal used shall be such that ducts do not "oilcan". The booming noise caused by "oilcanning" is not acceptable.

Responsibility: Builder will correct to eliminate this

sound.

13. ELECTRICAL: COVERAGE 1ST YEAR, WORKMANSHIP AND MATERIALS

- A. Electrical Conductors, Fuses, and Circuit Breakers
- (1) Possible Deficiency: Fuses blow or circuit breakers (excluding ground fault interruptors) "kick out".

Performance Standard: Fuses and circuit breakers shall

not activate under normal usage.

Responsibility: Builder will check wiring circuits for conformity with local, state, or approved national electrical code requirements. Builder will correct circuitry not conforming to code specifications.

- B. Outlets, Switches and Fixtures
- (1) Possible Deficiency: Drafts from electrical outlets.

 Performance Standard: Electrical junction boxes on exterior wall may produce air flow whereby the cold air can be drawn through the outlet into a room. The problem is normal in hew home construction.

Responsibility: None.

(2) Possible Deficiency: Malfunction of electrical outlets, switches or fixtures.

Performance Standard: All switches, fixtures and outlets

shall operate as intended.

Responsibility: Builder will repair or replace defective switches, fixtures and outlets.

- C. Service and Distribution
 - (1) Possible Deficiency: Ground fault interrupter trips

frequently.

Performance Standard: Ground fault interrupters are sensitive safety devices installed into the electrical system to provide protection against electrical shock. These sensitive devices can be tripped very easily.

Responsibility: Builder shall install ground fault interrupter in accordance with approved electrical code. Tripping is to be expected and is not covered, unless due to a construction

defect.

SYSTEMS: FIRST AND SECOND YEARS

14 PLUMBING SYSTEM: COVERAGE 1ST AND 2ND YEARS, SYSTEMS

Water Supply A.

(1) Possible Deficiency: Water supply system fails to deliver water.

Performance Standard: All on-site service connections to municipal water main and private water supply shall be the Builder's responsibility. Private systems shall be designed and installed in accordance with all approved

building, plumbing and health codes.

Responsibility: Builder will repair if failure is the result of defective workmanship or materials. If conditions beyond Builder's control disrupt or eliminate the sources of the supply, the Builder has no responsibility.

Septic Tank System B.

(1) Possible Deficiency: Septic system fails to operate properly.

Performance Standard: Septic system shall function adequately during all seasons, under climatic conditions normal or reasonable anticipated (based on local records) for the location of the home. Septic system shall be designed and installed to

comply with applicable, approved Code requirements.

Responsibility: Builder will repair, or otherwise correct, a malfunctioning or non operating system, if failure is caused by inadequate design, faulty installation, or other cause relating to actions of the builder or contractors or subcontractors under the builder's control. Builder will not be responsible for system malfunction or damage which is caused by owner negligence, lack of system maintenance, or other causes attributable to actions of the owner or owner's contractors, not under the control of the builder, including, but not necessarily limited to: the addition of fixtures, items of equipment, appliances or other sources of waste or water to the plumbing system served by the septic system; and damage, or changes, to the septic system installation or surrounding soil conditions critical to the system's functioning.

C. Piping

(1) Possible Deficiency: Leakage from any pipe.
Performance standard: No leaks of any kind shall exist
in any soil, waste, vent, or water pipe. Condensation on piping

does not constitute leakage, and is not covered.

Responsibility: Builder will make repairs to eliminate leakage.

(2) Possible Deficiency: Stopped up sewers, fixtures and drains.

Performance Standard: Sewers, fixtures and drains shall

operate properly.

Responsibility: Builder will not be responsible for sewers, fixtures and drains which are clogged through the Home Owner negligence. If a problem occurs, the Home Owner should consult Builder for a proper course of action. Where defective construction is shown to be the cause, Builder will assume the cost of the repair; where Home Owner negligence is shown to be the cause, the Home Owner shall assume all repair costs.

(3) Possible Deficiency: Refrigerant lines leak.
Performance Standard: Refrigerant lines shall not develop leaks during normal operation.

Responsibility: Builder will repair leaking refrigerant lines and re-charge unit, unless damage was caused by the Home Owner.

15. VENTITATION SYSTEM: COVERAGE 1ST AND 2ND YEAR, SYSTEMS

A. Air Distribution

(1) Possible Deficiency: Ductwork separates or becomes unattached.

Performance Standard: Ductwork shall remain intact and securely fastened.

Responsibility: Builder will re-attach and re-secure all separated or unattached ductwork.

16. ELECTRICAL SYSTEM: COVERAGE 1ST AND 2ND YEAR, SYSTEMS

A. Wiring

(1) Possible Deficiency: Failure of wiring to carry its designed load.

Performance Standard: Wiring should be capable of carrying the designed load for normal residential use.

Responsibility: Builder will check wiring for conformity with local, state, or approved national electrical code requirements. Builder will repair wiring not conforming to code specifications.